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June 12, 2007

Thomas Quasarano, Esq.
State of Michigan
Department of Attorney General
525 W. Ottawa St.
Lansing, MI 48909

*Re: Ben Hansen v. State of Michigan Department of Community Health
Lower Court Case No. 06-1033 CZ
COA Case No. 278074*

Dear Mr. Quasarano,

Enclosed please find the Michigan Court of Appeals Docketing Statement.

Very truly yours,

Krystle Melquiades
Legal Assistant to Alan Kellman

Encl.

cc: Ben Hansen

Michigan Court of Appeals

DOCKETING STATEMENT

Case No:	
Circuit:	06-1033 CZ
Court of Appeals:	278074

Please read before completing form.

- MCR 7.204(H) and 7.205(D)(3) require an **appellant** in a civil action to complete and file a docketing statement within 28 days after the claim of appeal is filed or the application for leave to appeal is granted. Failure to timely file this document may lead to dismissal of the appeal. An appellee may respond by filing a separate docketing statement.
- This document will be used to screen the appeal for suitability and eligibility for the settlement conference program, and will be used to help resolve jurisdictional and transcript issues. It is important that you complete this form accurately and legibly.
- The issues identified in the docketing statement do not limit appellant's presentation of the issues in appellant's brief. Omission of an issue in the docketing statement will not provide a basis for a motion to strike appellant's brief.

1. Case Name:

Appellant
 Appellee

Appellant
 Appellee

Ben Hansen

Name of first Plaintiff

Address: 926 E. State St. Traverse City, MI 49606 Telephone No: (231) 946-0414
--

v State of MI, Dept. of Community Health

Name of first Defendant

Address: 201 Townsend St. Lansing, MI 48913 Telephone No: (517) 373-3740
--

Attorney Name: Alan Kellman Bar No: P15826 Address: 645 Griswold, Suite 1370 Telephone No: (313) 961-1080

Attorney Name: Thomas Quasarano Bar No: P27982 Address: 525 W. Ottawa St. P.O. Box 30212 Telephone No: (517) 373-9100

2. A bankruptcy or other proceeding has been filed which affects this Court's jurisdiction over this appeal.

Identify and explain.

3. There are pending or prior appeals in the Court of Appeals or Supreme Court which arose out of the same transaction, lower court case, or between the same parties.

Specify case name, lower court number, appellate court number(s), and citation, if available.

4. I am aware of the following pending appeals in the Court of Appeals or Supreme Court raising the same or closely related issues.

Specify case name, lower court number, appellate court number(s), and citation, if available.

5. Identify all the lower court hearings.

Type of proceeding (i.e. motion, trial, etc.)	Date(s) Occurred	Court Reporter
Motion to Dismiss	11/1/06 & 3/21/07	Dorothy Dungey
	(Oral argument)	

6. Nature of case:

a. If the lower court case number provided on page 1 does not include a suffix, please specify the circuit court case code (i.e. NI, CK, etc): _____.

b. Identify the procedural nature of the case being appealed.

- arbitration bench trial post-judgment action declaratory judgment
 interlocutory matter jury trial summary disposition
 administrative proceeding (specify agency) _____
 other (i.e. default judgment) _____

7. Briefly describe the nature of the action and the result in the trial court. Conclusory statements such as "the judgment of the trial court is not supported by law" are unacceptable. Attach additional pages as needed.

Please see attached.

8. Briefly state the issues to be raised in this appeal. Attach additional pages as needed.

Please see attached.


9. The amount and terms of the judgment appealed are:

Please see attached.

10. Settlement negotiations. (Check all boxes that apply.)

- Settlement negotiations have been conducted or are scheduled.
 Settlement is unlikely.
 Other _____

6/12/07
Date


Signature JEAN KELLMAN PISBOY

Provide the Proof of Service on a separate form.

Ben Hansen v. State of Michigan Department of Community Health
COA Case No. 278074

7. Briefly describe the nature of the of the action and the result in the trial court. Conclusory statements such as “the judgment of the trial court is not supported by law” are unacceptable. Attach additional pages as needed.

Plaintiff filed a civil action under the Freedom of Information Act, M.C.L. 15.231 et seq., seeking records from the Michigan Department of Community Health pertaining to a program funded by Eli Lilly. (Millions of medicaid dollars are spent each year on psychiatric drugs. Information regarding this program and the distribution of the drugs were and are the subject of the FOIA requests and action.) Defendant moved for dismissal pursuant to M.C.R. 2.116 (C)(7)(8)(10). At a hearing on November 1, 2006, the parties agreed that certain documents would be made available and other documents would be made available for an “in camera” inspection by Plaintiff’s counsel. The Court entered an order (“Order for Private Review of Records”) on November 6, 2006 providing for the documents to be turned over and the “in camera” inspection. (Roughly 500 pages of documents were turned over.) Following this review the dispute was narrowed to two categories of records: (1) Michigan Under 5 Detail Drugs and Quality Indicator; and (2) Patients On 5 or More Concurrent Behavioral Drugs. (In simple terms, Plaintiff was and is seeking information [not personal data or information] or statistics on psychiatric drugs being administered to children under 5 years of age and information/statistics (again not personal information) on people being given multiple psychiatric drugs). The hearing on the motion was summary disposition was reconvened on March 21, 2007. The Court issued its opinion and order which was entered on May 1, 2007 dismissing the case and awarding attorneys’ fees in the nature of sanctions.

8. Briefly state the issues to be raised in this appeal. Attach additional pages as needed.
 1. Whether the Court erred in granting Defendant’s Motion to Dismiss?
 2. Whether the Court erred in finding that Plaintiff failed to state a claim upon which relief can be granted and that there were no genuine issues of material fact per M.C.R. 2.116 (C)(10)?
 3. Whether the Court erred in failing to conduct a de novo review (as opposed to relying on the Defendant’s review and position) and failing to place the burden on the public body to sustain its burden, as provided by M.C.L.A. § 1540 (4)?
 4. Whether the Court erred in awarding costs, expenses and attorney fees pursuant to M.C.R. 2.114 (E)(F) and M.C.L. 600.2591 in the sum of \$3,500?

9. The amount and terms of the judgment appealed are:

The judgment is not a monetary judgment except for the \$3,500 award of attorneys’ fees. The terms of the judgment are that Plaintiff is not entitled to the documents which fall within the categories of 1) Michigan Under 5 Detail Drugs and Quality Indicator; and (2) Patients On 5 or More Concurrent Behavioral Drugs.

CIRCUIT COURT FOR THE STATE OF MICHIGAN
INGHAM COUNTY CIRCUIT COURT
THIRTIETH JUDICIAL DISTRICT

BEN HANSEN,

Plaintiff

v.

STATE OF MICHIGAN, DEPARTMENT OF
COMMUNITY HEALTH

Defendant.

Case No. 06-1033 CZ

COA No. 278074

Hon. Beverley Nettles-Nickerson

Freedom of Information Act
Complaint

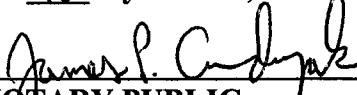
AG#2006021202

CERTIFICATE OF SERVICE

Krystle Melquiades, being first duly sworn, deposes and says that on the 12th day of June, 2007, she served *Michigan Court of Appeals Docketing Statement* and this *Certificate of Service* in the above matter by regular mail, by placing same in an envelope with adequate postage thereupon and depositing in the United States Post Office box at Detroit, Michigan::

Thomas Quasarano (P27982)
State of Michigan
Department of Attorney General
525 W. Ottawa St.
Lansing, MI 48909

Subscribed and sworn to me
this 12 day of June, 2007


NOTARY PUBLIC


KRYSTLE MELQUIADES

JAMES P. ANDEREAK
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Apr 14, 2011
ACTING IN COUNTY OF